IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

JUDGMENT
IN

1. S.B. Criminal Appeal No.490/2003

Sohan Singh S/o Amar Singh
...Accused-Appellant
Versus
The State of Rajasthan through the Public Prosecutor
...Respondent

2. S.B. Criminal Jail Appeal No.526/2003

Sohan Singh S/o Amar Singh
...Accused-Appellant
Versus
The State of Rajasthan through the Public Prosecutor
...Respondent

Date of Order :::: 9th April, 2007

PRESENT
Hon'ble Mr. Justice Narendra Kumar Jain

Shri Reashm Bhargava, Counsel for accused-appellant
Smt. Nirmala Sharma, Public Prosecutor, for the State

By the Court:-

These two appeals, on behalf of the accused Sohan Singh s/o Amar Singh, one through Superintendent, Central Jail, Ajmer and another through Advocate, have been preferred against the impugned judgment dated 29th January, 2003, passed by the Additional Sessions Judge (Fast Track) Beawar, in Sessions Case No.49/2002, whereby the accused-appellant was convicted under section 376 read with

Section 511 of the Indian Penal Code, to 10 years rigorous imprisonment and a fine of Rs.1,000/-; in default of payment of fine, to further undergo six months simple imprisonment.

The learned counsel for the appellant, Shri Reashm Bhargava, argued the case at length, but, during the course of arguments, in view of the statement of PW-4 Kanta and PW-5 Smt. Tara, did not press the appeal on merits and contended that the appellant has already remained in jail for 4 years 3 months and 18 days, therefore, his case may be considered for reduction of sentence of imprisonment to a period of imprisonment already undergone by him.

The learned Public Prosecutor has supported the judgment of the trial court. However, the learned Public Prosecutor has not disputed this fact that the appellant has already remained in jail for a period as contended by the counsel for the appellant.

I have considered the submissions of learned counsel for both the parties and after considering the statements of PW-4 Kanta and PW-5 Kumari Tara, it is clear that prima-facie the accused has committed the offence under Section 376 read with Section 511, IPC. The trial court has considered the evidence of the case in detail and has rightly convicted the accused-

appellant and the learned counsel for the appellant is right in not pressing the appeal on merits.

So far as the submission of the learned counsel for the appellant for reduction of the sentence of imprisonment is concerned, I find that the Hon'ble Supreme Court in Koppula Venkat Rao Vs. State of A.P. (2004) 3 SCC 602, while convicting the accused therein under Section 376 read with Section 511, IPC, awarded a sentence of imprisonment of three-and-half-year. Para 13 of the judgment is reproduced as under:

> "13. .....That being the position, conviction is altered from Section 376 IPC to Sections 376/511 IPC. Custodial sentence of 3 and ½ years would meet the ends of justice. ....."

This Court in Kishori S/o Shri Sarvan Vs. State of Rajasthan through Public Prosecutor, S.B. Criminal Jail Appeal No.361/2005, decided on 20.4.2006, considered the submission of the accused therein to reduce the sentence of imprisonment of 5 years, awarded by the trial court under Section 376/511, IPC, to a period of imprisonment of three-and-half-year, already undergone by the accused. This Court after considering the submission of the accused-appellant, reduced the sentence to a period of three-and-half-year rigorous imprisonment, already undergone by the accused-appellant.

In view of the above discussion and facts and circumstances of the present case, I find that ends of justice will meet if sentence of imprisonment of appellant, awarded by the trial court, is reduced to a period of imprisonment of 4 years 3 months and 18 days, already undergone by him, till now.

Consequently, both the appeals are partly allowed. The conviction of the accused-appellant Sohan Singh under Section 376 read with Section 511, IPC, is maintained, but his sentence of imprisonment is reduced to a period of 4 years 3 months and 18 days, already undergone by him. The accused is in judicial custody and he may be released forthwith, if his custody is not required in any other case.

(Narendra Kumar Jain) J.

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